

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

IN THE MATTER OF:

**ANTHONY PIERCE,**

**ALICIA A. PIERCE,**

Debtor(s)

Case No: B-1080697 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtors' plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on April 22, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On April 22, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The petition filed by the Debtors proposes a monthly plan payment of \$2,802.00 for a period of 60 months. No dividend is provided to general unsecured creditors.
5. Wells Fargo Home Mortgage ("Wells Fargo") has filed a claim secured by a deed of trust on the Debtors' real property in the amount of \$249,327.44 and has asserted monthly payments of \$1,662.65 and arrearages through September of 2010 in the amount of \$39,069.29.
6. Capital One Auto Finance ("Capital One") has filed a claim in the amount of \$32,214.68 secured by the Debtors' 2004 BMW ("the automobile"). The Debtors' plan provides that the claim of Capital One shall be paid as fully secured with interest at the rate of 5.25% per annum in equal monthly installments of \$612.00.

7. The Trustee objects to confirmation of the plan in that the Debtors' proposed plan payments are not sufficient to satisfy the long-term debt payments to Wells Fargo, the arrearage claim of Wells Fargo, the secured claim of Capital One, and all other secured and priority claims, if any, within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307;
2. That, in the alternative, the Debtors' plan payments be increased to \$3,135.00 per month; or
3. For such other and further relief as the Court may deem just or proper.

This the 3rd day of August, 2010.

s/Benjamin E. Lovell  
Benjamin E. Lovell  
Attorney for the Trustee  
State Bar No: 23266  
P.O. Box 3613  
Durham, N.C. 27702

#### CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Road, Raleigh, NC 27615, Anthony Wayne and Alicia Artrell Pierce, 3712 Appling Way, Durham, NC 27703, Michael D. West, Esq., US Bankruptcy Administrator, Post Office Box 1828, Greensboro, NC 27402 by depositing the same, enclosed in a postpaid wrapper, properly addressed to the following parties in interest, at their last known addresses as shown below, in a post office or official depository under the exclusive care and custody of the United States Postal Service:

This the 3rd day of August, 2010.

s/Benjamin E. Lovell  
Benjamin E. Lovell  
Attorney for the Trustee